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HOUSE BILL 694

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Jim R. Trujillo

AN ACT

RELATING TO CHILD SUPPORT; REQUIRING CERTAIN PARENTS TO PROVIDE
HEALTH INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 27-1-14 NMSA 1978 (being Laws 1997,
Chapter 237, Section 34) is amended to read:

"27-1-14. ENFORCEMENT OF ORDERS FOR HEALTH CARE.--

A. All Title IV-D [~~child support orders enforced~~]
agency cases shall include a provision for the health care
coverage of [~~the~~] each child [~~and~~]. In the case in which a
[~~noncustodial~~] medical support obligor parent provides such
coverage and changes employment and the new employer provides
[~~health care~~] such coverage, the state Title IV-D agency shall
transfer notice of the provision to the employer, which notice
shall operate to enroll [~~the~~] each child in the [~~noncustodial~~

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1 ~~parent's]~~ medical support obligor's health plan unless the
2 ~~[noncustodial parent]~~ medical support obligor successfully
3 contests the notice.

4 B. For purposes of this section, "medical support
5 obligor" means a person owing a duty to provide health support,
6 or against whom a proceeding for the enforcement of such a duty
7 of support is commenced or for registration of a support order
8 that includes provisions for such support for each minor
9 child."

10 Section 2. Section 40-4C-2 NMSA 1978 (being Laws 1990,
11 Chapter 78, Section 2, as amended) is amended to read:

12 "40-4C-2. PURPOSE.--To ~~[assure]~~ ensure that children have
13 access to quality medical care, it is the purpose of the
14 Mandatory Medical Support Act to require parents ~~[responsible~~
15 ~~for the support of minor children]~~ to provide or purchase
16 health insurance ~~[and dental insurance]~~ coverage for ~~[those]~~
17 their minor children when such coverage is available."

18 Section 3. Section 40-4C-3 NMSA 1978 (being Laws 1990,
19 Chapter 78, Section 3, as amended) is amended to read:

20 "40-4C-3. DEFINITIONS.--As used in the Mandatory Medical
21 Support Act:

22 A. "court" means any district court ordering
23 ~~[child]~~ support ~~[of an]~~ by a medical support obligor;

24 ~~[B. "dental insurance coverage" means those~~
25 ~~coverages generally associated with a dental plan of benefits,~~

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1 ~~not including medicaid coverage authorized by Title 19 of the~~
2 ~~Social Security Act and administered by the department;~~

3 ~~G.]~~ B. "department" means the human services
4 department;

5 ~~[D.]~~ C. "employer" means an individual,
6 organization, agency, business or corporation hiring [an] a
7 medical support obligor for pay;

8 ~~[E.]~~ D. "health insurance coverage" means those
9 coverages generally associated with a medical plan of benefits,
10 which may include dental insurance, but not including medicaid
11 coverage authorized by Title 19 of the Social Security Act and
12 administered by the department;

13 ~~[F.]~~ E. "insurer" means an employment-related or
14 other group health care insurance plan, a health maintenance
15 organization, a nonprofit health care plan or other type of
16 health care insurance plan under which medical or dental
17 services are provided, regardless of service delivery
18 mechanism;

19 F. "medical support obligee" means a person to whom
20 a duty of medical support is owed or a person, including the
21 department, who has commenced a proceeding for enforcement of a
22 duty to provide health support for each minor child or for
23 registration of a support order that includes a provision for
24 such support for each minor child;

25 G. "medical support obligor" means a person owing a

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1 duty to provide health support or against whom a proceeding for
2 the enforcement of such a duty of support is commenced or for
3 registration of a support order that includes provisions for
4 such support for each minor child;

5 [G.] H. "minor child" means a child younger than
6 eighteen years of age who has not been emancipated; and

7 [H.] I. "national medical support notice" means a
8 [~~court-ordered~~] notice to an employer that an employee's child
9 must be covered by the employment-related group health and
10 dental care insurance plan pursuant to a court order.

11 [~~I. "obligee" means a person to whom a duty of~~
12 ~~support is owed or a person, including the department, who has~~
13 ~~commenced a proceeding for enforcement of an alleged duty of~~
14 ~~support or for registration of a support order, regardless of~~
15 ~~whether the person to whom a duty of support is owed in a~~
16 ~~recipient of public assistance; and~~

17 J. [~~"obligor" means a person owing a duty of support~~
18 ~~or against whom a proceeding for the enforcement of a duty of~~
19 ~~support or for registration of a support order is commenced.]"~~

20 Section 4. Section 40-4C-4 NMSA 1978 (being Laws 1990,
21 Chapter 78, Section 4, as amended) is amended to read:

22 "40-4C-4. MEDICAL SUPPORT--ORDER.--

23 A. The court shall [~~order an obligor to name the~~
24 ~~minor child on behalf of whom support is owed as an eligible~~
25 ~~dependent of health insurance coverage or dental insurance~~

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1 ~~coverage if]~~ determine a parent or both parents to be a medical
2 support obligor based on the following:

3 (1) the availability of health insurance
4 coverage [~~or dental insurance coverage~~] that meets or exceeds
5 the minimum standards required under the Mandatory Medical
6 Support Act [~~is not available at a more reasonable cost to the~~
7 ~~obligee than to the obligor for coverage of the minor child~~];
8 and

9 (2) [~~such~~] the availability of health
10 insurance coverage [~~or dental insurance coverage is available~~
11 ~~to the obligor~~] through an employment-related or other group
12 health and dental care insurance plan.

13 B. When a medical support obligor is ordered to
14 provide health insurance coverage, the medical support obligor
15 shall properly name each minor child on behalf of whom support
16 is owed as an eligible dependent on such insurance.

17 [~~B.~~] C. The court may consider the impact of the
18 cost of health insurance coverage [~~or dental insurance~~
19 ~~coverage~~] on the payment of the base child support amounts in
20 determining whether such insurance coverage shall be ordered.

21 [~~C.~~] D. The court may order the medical support
22 obligor to obtain health insurance coverage [~~or dental~~
23 ~~insurance coverage~~] for [~~any~~] each minor child to whom support
24 is owed if [~~+~~] the court finds that health insurance coverage
25 [~~or dental insurance coverage~~] for [~~the~~] each minor child is

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1 not available to the medical support obligor through an
2 employment-related or other group health care insurance plan.
3 [and

4 ~~(2) the obligee does not have such health~~
5 ~~insurance coverage or dental insurance coverage available at a~~
6 ~~more reasonable cost than the obligor for coverage of the minor~~
7 ~~child.~~

8 ~~D.]~~ E. The court shall require the medical support
9 obligor to be liable for all or a portion of the medical [~~or~~]
10 and dental expenses of [~~the~~] each minor child that are not
11 covered by the required health insurance coverage [~~or dental~~
12 ~~insurance coverage~~] if:

13 (1) the court finds that the health insurance
14 coverage [~~or dental insurance coverage~~] required to be obtained
15 by [~~the~~] a medical support obligor [~~or available to the~~
16 ~~obligee~~] does not pay all the reasonable and necessary medical
17 or dental expenses of [~~the~~] each minor child; and

18 (2) the court finds that [~~the~~] a medical
19 support obligor has the financial resources to contribute to
20 the payment of these medical or dental expenses.

21 [~~E.]~~ F. The court shall require the medical support
22 obligor to provide health insurance coverage or dental
23 insurance coverage for the benefit of the medical support
24 obligee if it is available at no additional cost to the medical
25 support obligor.

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1 [F-] G. The court in any proceeding for the
2 establishment, enforcement or modification of a child support
3 obligation may modify an existing order of support or establish
4 child support, as applicable, for [~~the~~] each minor child to
5 incorporate the provisions for medical and dental support
6 ordered pursuant to the Mandatory Medical Support Act."

7 Section 5. Section 40-4C-5 NMSA 1978 (being Laws 1990,
8 Chapter 78, Section 5) is amended to read:

9 "40-4C-5. ORDER--PROOF OF COMPLIANCE--NOTICE.--

10 A. The medical support obligor shall provide to the
11 medical support obligee within thirty days of receipt of
12 effective notice of a court order for health insurance coverage
13 [~~or dental insurance coverage~~] pursuant to the Mandatory
14 Medical Support Act written proof of the medical support
15 obligor's compliance with that order. Compliance means either
16 that the health insurance coverage [~~or dental insurance~~
17 ~~coverage~~] has been obtained or that a correct and complete
18 application for such coverage has been made.

19 B. The medical support obligee shall forward a copy
20 of the court order for health insurance coverage [~~or dental~~
21 ~~insurance coverage~~] issued pursuant to the Mandatory Medical
22 Support Act to the medical support obligor's employer or union
23 only when ordered to do so by the court or when:

24 (1) the medical support obligor fails to
25 provide written proof of compliance with the court order to the

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1 medical support obligee within thirty days of the medical
2 support obligor's receipt of effective written notice of the
3 court order;

4 (2) the medical support obligee serves by mail
5 at the medical support obligor's last known post office address
6 written notice on the medical support obligor of the medical
7 support obligee's intent to enforce the order; and

8 (3) the medical support obligor fails to
9 provide within fifteen days after the date the medical support
10 obligee mailed the notice in Paragraph (2) of this subsection
11 written proof to the medical support obligee that the medical
12 support obligor has obtained the health insurance coverage [~~or~~
13 ~~dental insurance coverage~~] ordered by the court or has applied
14 for such coverage.

15 C. Upon receipt of a court order for health
16 insurance coverage [~~or dental insurance coverage~~] pursuant to
17 the Mandatory Medical Support Act, the employer or union shall
18 forward a copy of the order to the health insurer or dental
19 insurer, as applicable."

20 Section 6. Section 40-4C-6 NMSA 1978 (being Laws 1990,
21 Chapter 78, Section 6, as amended) is amended to read:

22 "40-4C-6. OBLIGATIONS--EMPLOYERS, UNIONS AND INSURERS--
23 PLAN.--

24 A. Upon receipt of a national medical support
25 notice or the court order for health insurance coverage [~~or~~

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1 ~~dental insurance coverage~~] pursuant to Section 40-4C-5 NMSA
2 1978 or upon application of the medical support obligor
3 pursuant to the court order, the employer or union shall enroll
4 the minor child as an eligible dependent in the health
5 insurance plan [~~or dental insurance plan~~] and withhold any
6 required premium from the medical support obligor's income or
7 wages. If more than one health [~~insurance plan or~~] and dental
8 insurance plan is offered by the employer, union or insurer,
9 the minor child shall be enrolled in the plan in which the
10 medical support obligor is enrolled. If the medical support
11 obligor is not enrolled in a plan, the child shall be enrolled
12 in a plan that meets the minimum coverage criteria required
13 pursuant to the Mandatory Medical Support Act. If the medical
14 support obligor is not enrolled in a plan, the premiums charged
15 for the child or children of the medical support obligor shall
16 be those charged for the enrollment of the medical support
17 obligor only.

18 B. In any instance in which the medical support
19 obligor is required by a court order to provide health
20 insurance coverage [~~or dental insurance coverage~~] for [the]
21 each minor child and the medical support obligor is eligible
22 for health insurance coverage [~~or dental insurance coverage~~]
23 through an employment-related or other group health care
24 insurance plan, the employer, union or insurer shall do the
25 following:

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1 (1) permit the medical support obligor to
2 enroll for health insurance coverage [~~or dental insurance~~
3 ~~coverage the~~] each minor child who is otherwise eligible for
4 coverage without regard to any enrollment season restrictions;

5 (2) enroll [~~the~~] each minor child for health
6 insurance coverage [~~or dental insurance coverage~~] if the
7 medical support obligor fails to enroll [~~the~~] each minor child
8 upon application by the medical support obligee or the
9 department;

10 (3) not disenroll or eliminate coverage of any
11 minor child so enrolled unless:

12 (a) the employer is provided with
13 satisfactory written evidence that the court order is no longer
14 in effect;

15 (b) the minor child is or will be
16 enrolled in comparable health coverage that meets the coverage
17 criteria required pursuant to the Mandatory Medical Support Act
18 and that will take effect not later than the effective date of
19 the disenrollment;

20 (c) the medical support obligor has
21 terminated employment; or

22 (d) the employer has eliminated health
23 insurance coverage [~~or dental insurance coverage~~] for all of
24 its employees; and

25 (4) withhold from the medical support

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1 obligor's compensation the medical support obligor's share, if
2 any, of premiums for health insurance coverage [~~or dental~~
3 ~~insurance coverage~~] and to pay the share of premiums to the
4 insurer, unless otherwise provided in law or regulation.

5 C. In those instances [~~where~~] in which the medical
6 support obligor fails or refuses to execute any document
7 necessary to enroll [~~the~~] a minor child in [~~the~~] a health
8 insurance plan [~~or dental insurance plan~~] ordered by the court,
9 the required information and authorization may be provided by
10 the department or the custodial parent or guardian of the minor
11 child.

12 D. Information and authorization provided by the
13 department or the custodial parent or guardian of [~~the~~] a minor
14 child shall be valid for the purpose of meeting enrollment
15 requirements of the health insurance plan [~~or dental insurance~~
16 ~~plan~~] and shall not affect the obligation of the employer or
17 union and the insurer to enroll the minor child in
18 the health insurance plan [~~or dental insurance plan~~] for which
19 other eligibility, enrollment, underwriting terms and other
20 requirements are met. In instances in which [~~the~~] a minor
21 child is insured through the medical support obligor, the
22 insurer shall provide all information to the medical support
23 obligee that may be helpful or necessary for the minor child to
24 obtain benefits.

25 E. A minor child that [~~an~~] a medical support

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1 obligor is required to cover as an eligible dependent pursuant
2 to the Mandatory Medical Support Act shall be considered for
3 insurance coverage purposes as a dependent of the medical
4 support obligor until the child is emancipated or until further
5 order of the court.

6 F. In instances in which [~~the~~] a minor child is
7 insured through [~~the~~] a medical support obligor, the insurer is
8 prohibited from denying health insurance coverage [~~or dental~~
9 ~~insurance coverage~~] of the minor child on the grounds that the
10 minor child was born out of wedlock, that the minor child is
11 not claimed as a dependent on the medical support obligor's
12 federal income tax return or that the minor child does not
13 reside with the medical support obligor or reside in the
14 insurer's service area.

15 G. In instances in which [~~the~~] a minor child is
16 insured through [~~the~~] a medical support obligor, the insurer is
17 prohibited from imposing requirements on the department that
18 are different from requirements applicable to an agent or
19 assignee of any other individual covered by the insurer.

20 H. In instances in which [~~the~~] a minor child is
21 insured through [~~the~~] a medical support obligor who is a
22 noncustodial parent, the insurer shall permit the [~~obligee~~]
23 custodial parent or health care provider, with the approval of
24 the [~~obligee~~] custodial parent, to submit claims for covered
25 services without the approval of the medical support obligor.

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1 The insurer shall make payments on submitted claims directly to
2 the ~~[obligee]~~ custodial parent or the health care provider.

3 I. ~~[When]~~ If the medical support obligor is
4 terminated, the employer shall notify the department of the
5 termination."

6 Section 7. Section 40-4C-10 NMSA 1978 (being Laws 1990,
7 Chapter 78, Section 10, as amended) is amended to read:

8 "40-4C-10. EMPLOYER, UNION OR INSURER NOTICE.--When an
9 order for health insurance coverage ~~[or dental insurance~~
10 ~~coverage]~~ pursuant to the Mandatory Medical Support Act is in
11 effect, upon termination of the medical support obligor's
12 employment or upon termination of the insurance coverage, the
13 employer, union or insurer shall make a good faith effort to
14 notify the ~~[obligee]~~ department and the other parent within ten
15 days of the termination date with notice of conversion
16 privileges."

17 Section 8. Section 40-4C-11 NMSA 1978 (being Laws 1990,
18 Chapter 78, Section 11, as amended) is amended to read:

19 "40-4C-11. RELEASE OF INFORMATION.--When an order for
20 health insurance coverage ~~[or dental insurance coverage]~~
21 pursuant to the Mandatory Medical Support Act is in effect, the
22 medical support obligor's employer, union or insurer shall
23 release to the ~~[obligee]~~ other parent, upon request,
24 information on such coverage, including the name of the
25 insurer."

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1 Section 9. Section 40-4C-12 NMSA 1978 (being Laws 1990,
2 Chapter 78, Section 12, as amended) is amended to read:

3 "40-4C-12. MEDICAL SUPPORT OBLIGOR LIABILITY.--

4 A. [~~An~~] A medical support obligor who fails to
5 maintain the health insurance coverage [~~or dental insurance~~
6 ~~coverage~~] for the benefit of a minor child as ordered pursuant
7 to the Mandatory Medical Support Act shall be liable to the
8 [~~obligee~~] department or the other parent for any medical and
9 dental expenses incurred from the date of the court order.

10 B. [~~An~~] A medical support obligor who receives
11 payment from a third party for the costs of medical or dental
12 services provided to a minor child and who fails to use the
13 payment to reimburse the department is liable to the department
14 to the extent of the department's payment for the services.
15 The department is authorized to intercept the obligor's tax
16 refund, if the medical support obligor is a noncustodial
17 parent, or use other means of enforcement available to the
18 department to recoup amounts paid. Claims for current or past
19 due child support take priority over any claims made pursuant
20 to this subsection. [~~Proof of~~] Failure to maintain health
21 insurance coverage [~~or dental insurance coverage~~] as ordered
22 constitutes a showing of increased need [~~by the obligee~~] and
23 provides a basis for modification of the medical support
24 obligor's child support order.

25 C. [~~An~~] A medical support obligor is required to

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1 provide the department with the following information
2 concerning health insurance coverage [~~or dental insurance~~
3 ~~coverage~~]:

4 (1) medical support obligor's name and tax
5 identification number;

6 (2) type of coverage (single or family);

7 (3) name, address and identifying number of
8 health insurance coverage [~~or dental insurance coverage~~];

9 (4) name and tax identification number of
10 other individuals who are provided health insurance coverage
11 [~~or dental insurance coverage~~] by the medical support obligor;

12 (5) effective period of coverage; and

13 (6) name, address and the tax identification
14 number of the employer."

15 Section 10. Section 40-4C-13 NMSA 1978 (being Laws 1990,
16 Chapter 78, Section 13, as amended) is amended to read:

17 "40-4C-13. DEPARTMENT--DUTIES.--The department shall
18 [~~implement~~] pursue the establishment and [~~enforce~~] enforcement
19 of an order for health insurance coverage [~~or dental insurance~~
20 ~~coverage~~] when [~~the~~] a minor child receives public assistance
21 or medicaid or upon application of [~~the obligee~~] a custodial or
22 noncustodial parent to the department and payment by the
23 [~~obligee~~] custodial or noncustodial parent of [~~any~~] fees
24 required by the department."

25 Section 11. Section 40-4C-14 NMSA 1978 (being Laws 1990,

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1 Chapter 78, Section 14) is amended to read:

2 "40-4C-14. ENFORCEMENT.--All remedies available for the
3 collection and enforcement of child support apply to medical
4 support ordered pursuant to the Mandatory Medical Support Act.
5 For the purpose of enforcement, the costs of individual or
6 group health or hospitalization coverage or liabilities
7 established pursuant to Section ~~[11 of the Mandatory Medical~~
8 ~~Support Act are considered to be additional child support]~~
9 40-4C-12 NMSA 1978 shall be included in a medical support
10 judgment."

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